

11-3621

A/RE

## REISSUE PATENT APPLICATION

Docket No. 29715/35152R

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REISSUE PATENT APPLICATION TRANSMITTAL  
UNDER 37 C.F.R. 1.171 ET SEQ.11/23/01  
jc966 U.S. PTOjc997 U.S. PTO  
09/991603  
11/23/01

Box Patent Application  
Commissioner for Patents  
Washington, D.C. 20231

Sir:

Transmitted herewith for filing is the **REISSUE** patent application of

Inventor(s): Brett P. Giroir and Patrick J. Scannon

Title: THERAPEUTIC USES OF BPI PROTEIN PRODUCTS FOR HUMAN  
MENINGOCOCCEMIA

## 1. Type of Application

- ☒ This is an application for reissue of U.S. Patent No. 5,990,086 issued on November 23, 1999.

## 2. Application Papers Enclosed

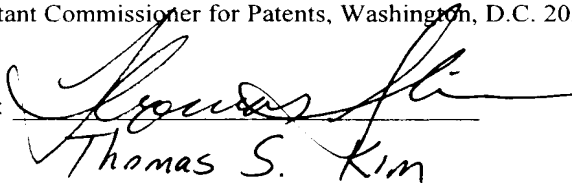
1. 14 pages of Specification, Sequence Listing and Claims in the form of a double column copy of the patent
2. 6 pages of Drawings (Figs. 1 to 6); no changes to the drawings upon which the original patent issued are to be made. Therefore, in accordance with 37 CFR 1.174, please find attached a copy of the printed drawings of the patent, containing Figs. 1 to 6.
3. Amendment With Reissue Application.
4. Consent of Assignee XOMA Technology Ltd. to Reissue Application.
5. Certificate by XOMA Technology Ltd. Under 37 CFR 3.73(b) including Exhibits A and B.
6. Return receipt postcard

**CERTIFICATION UNDER 37 CFR 1.10**"EXPRESS MAIL" mailing label No. **EL564465178US**.

I hereby certify that this Patent Application Transmittal and the documents referred to as enclosed therewith are being deposited with the United States Postal Service "EXPRESS MAIL POST OFFICE TO ADDRESSEE" service under 37 C.F.R. §1.10 addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on this date:

Date: November 23, 2001

Signed:

  
Thomas S. Kim

7. **Filing Fee Calculation (37 CFR 1.16)**

A. ☒ **Utility Application**

CLAIMS AS FILED - INCLUDING PRELIMINARY AMENDMENT (IF ANY)						
			SMALL ENTITY		OTHER THAN A SMALL ENTITY	
	NO. FILED	NO. EXTRA	RATE	FEE	RATE	FEE
BASIC FEE				\$370.00		\$740.00
TOTAL	9 -20	= 0	X 9 =	\$	X 18 =	\$0.00
INDEP.	2 - 3	= 0	X 42 =	\$	X 84 =	\$0.00
<input type="checkbox"/> First Presentation of Multiple Dependent Claim			+ 135 =	\$	+ 270 =	\$0.00
Filing Fee:				\$	OR	\$740.00

B. ☐ **Design Application (\$160.00/\$320.00)** Filing Fee: \$ \_\_\_\_\_  
 C. ☐ **Plant Application (\$245.00/\$490.00)** Filing Fee: \$ \_\_\_\_\_  
 D. **Other Fees**

☐ Recording Assignment [Fee -- \$40.00 per assignment] \$ \_\_\_\_\_  
☐ Petition fee for filing by other than all the inventors or person on behalf of the inventor where inventor refused to sign or cannot be reached  
☐ Other \$ \_\_\_\_\_

**Total Fees Enclosed \$740.00**

8. **Method of Payment of Fees**

☒ Enclosed check in the amount of: \$740.00  
☐ Charge Deposit Account No. 13-2855 in the amount of: \$ \_\_\_\_\_  
 A copy of this Transmittal is enclosed.  
☐ Not enclosed

**9. Deposit Account and Refund Authorization**

The Commissioner is hereby authorized to charge any deficiency in the amount enclosed or any additional fees which may be required during the pendency of this application under 37 CFR 1.16 or 37 CFR 1.17 or under other applicable rules (except payment of issue fees), to Deposit Account No. 13-2855. A copy of this Transmittal is enclosed.

Please refund any overpayment to Marshall, Gerstein & Borun at the address below.

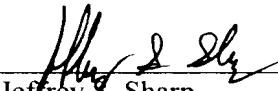
**10. Correspondence Address**

Customer No.: 04743

Respectfully submitted,

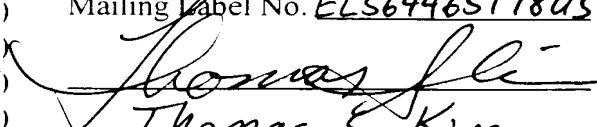
MARSHALL, GERSTEIN & BORUN  
6300 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606-6402  
(312) 474-6300  
(312) 474-0448 (Telefacsimile)

Date: November 23, 2001

  
\_\_\_\_\_  
Jeffrey S. Sharp  
Reg. No: 31,879

PATENT APPLICATION  
ATTORNEY DOCKET 29715/35152R

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of: Giroir et al.	)	I hereby certify that this paper and the
	)	documents identified herein are being
U.S. Patent No. 5,990,086	)	deposited with the United States Postal
	)	Service on <u>November 23, 2001</u> , in an
Issued Date: November 23, 1999	)	envelope addressed to the Assistant
	)	Commissioner of Patents, Washington,
For: Therapeutic Uses of BPI Protein	)	D.C. 20231 utilizing the "Express Mail
Products for Human Meningococemia	)	Post Office to Addressee" service of the
	)	United States Postal Service under
Filed: Herewith	)	Mailing Label No. <u>EL564465178US</u>
	)	
Probable Group Art Unit: 1646	)	Thomas S. Kim
Probable Examiner: A. Mohamed	)	

CERTIFICATE UNDER 37 C.F.R. §3.73(b)

Box REISSUE  
Commissioner for Patents  
Washington, D.C. 20231

Sir:

XOMA Technology Ltd., a Bermuda company, having a registered office at Clarendon House, 2 Church Street, Hamilton HM11, Bermuda, certifies that it is the assignee of an undivided interest in and to U.S. Application Serial No. 09/203,159, filed December 1, 1998, which issued on November 23, 1999 as U.S. Patent No. 5,990,086, in the names of inventors Brett P. Giroir and Patrick J. Scannon, for Therapeutic Uses of BPI Protein Products for Human Meningococemia.

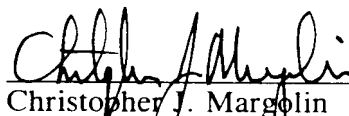
The chain of title from the inventor Patrick J. Scannon to XOMA Technology Ltd. is evidenced by the following. First, inventor Scannon assigned his entire right, title and interest in, among others, the above-identified application and the underlying invention to XOMA Corporation by an assignment, which was recorded on February 12, 1999, at Reel 9767, Frame 0521. Second, XOMA Corporation has become XOMA Ltd., a Bermuda company, through a merger and change in domicile and name. Exhibit A shows the documentation of this merger and change in domicile. Third, XOMA Ltd. assigned all of its

right, title and interest in, among others, the above-identified application and the underlying invention to XOMA Technology Ltd. through an assignment executed on December 6, 1999, a copy of which is attached hereto as Exhibit B. In light of this evidence of ownership of an undivided interest by XOMA Technology Ltd., it is submitted that XOMA Technology Ltd. is an assignee required to consent to the filing of the reissue application submitted herewith and does hereby consent as set forth in the accompanying Consent of Assignee to Reissue.

The undersigned, Christopher J. Margolin, is authorized to act on behalf of XOMA Technology Ltd.

Respectfully submitted,

By:



Christopher J. Margolin  
Vice President, General Counsel and Secretary  
XOMA Technology Ltd.

\_\_\_\_\_, 2001